

ASSEMBLY BILL NO. 1855

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1855 with my recommendations for reconsideration.

This bill is identical to legislation I conditionally vetoed at the beginning of my Administration. This bill would amend and supplement current laws, which were passed during the lame-duck period directly prior to my becoming Governor, that concern outreach and training for women and minority groups in construction and certain construction-related occupations. More specifically, the bill would modify the scope of public work projects subject to the 0.5% set-aside under P.L.2009, c.335, to align with the requirements of P.L.2009, c.313 that the mandatory set-aside apply to local, as well as State, projects. Additionally, the bill would expand P.L.2009, c.335, which requires the use of the 0.5% of funds set aside for outreach and training to include not only construction trade occupations, but also occupations in the construction industry, including management and engineering.

As I explained when I conditionally vetoed this proposal in 2010, I wholeheartedly support both the concept of remedying demonstrable past discriminatory practices in public contracting as well as the goal of reconciling ambiguous and overlapping laws. However, as I also explained, the bill as drafted is not sufficiently narrowly tailored to remedy past discrimination, as constitutionally required. The requirements of this bill, as applied to State entities, were supported by two separate disparity studies completed in 2005. As I noted in 2010, those studies did not extend to local units or to trades outside of

construction. That gap in demonstrable information undermines this bill's constitutionality.

In order to ensure on-going compliance with constitutional mandates and that our elected branches of government have the most up-to-date information in charting a future policy course, I am recommending that the Department of the Treasury, in conjunction with the Department of Labor and Workforce Development, conduct a disparity study for not only local units but also State entities. In doing so, the departments shall undertake to evaluate the success of the State's current programs, including any on-going need for such programs moving forward. My recommendations will not only ensure resources are made available to remedy past discrimination but also guarantee this practice is done within the confines of well-established constitutional principles and with sound informational and policy underpinnings.

Accordingly, I herewith return Assembly Bill No. 1855 and recommend that it be amended as follows:

<u>Page 2, Title, Line 1:</u>	After "concerning" insert "the study of"
<u>Page 2, Title, Line 2:</u>	Delete ", and amending P.L.2009,"
<u>Page 2, Title, Line 3:</u>	Delete "c.313 and P.L.2009, c.335"
<u>Page 2, Section 1, Lines 8-45:</u>	Delete in their entirety and insert "1. The Department of the Treasury, in consultation with the Department of Labor and Workforce Development, shall undertake a disparity study of women and minorities in construction trade occupations and other occupations utilized in the performance of public works contracts at both the State and local level. This study shall include a review of the success of and on-going need for programs supported by funds received by the Department of Labor and

Workforce Development
pursuant to P.L.2009, c.313.
The Department of the
Treasury shall report any
findings and recommendations
directly to the Governor no
later than eighteen months
from the effective date of
this act."

- Page 3, Section 1, Lines 1-48: Delete in their entirety
- Page 4, Section 1, Lines 1-29: Delete in their entirety
- Page 4, Section 2, Lines 31-47: Delete in their entirety
- Page 5, Section 2, Lines 1-7: Delete in their entirety
- Page 5, Section 3, Line 9: Delete "3." and insert "2."

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Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Robert L. Garrenger

Acting Chief Counsel to the Governor